

N. H. M. asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's decision regarding Mr. M.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Judge La Jeunesse's Supplemental Order of May 17, 2006, explains the background of Mr. M.'s claim and addresses two issues affecting the amount of Mr. M.'s entitlement to permanent total disability compensation. Those two issues are: 1) respondents' right to offset permanent partial disability compensation against permanent total disability compensation; and 2) respondents' right under §34A-2-413(5) of the Act to reduce permanent total disability compensation by an amount equal to 50% of Mr. M.'s social security retirement benefit.

In resolving the two issues identified above, Judge La Jeunesse concluded that respondents cannot offset permanent partial disability compensation against permanent total disability compensation, but can, pursuant to §34A-2-413(5), reduce Mr. M.'s permanent total disability compensation by 50% of his social security retirement benefit.

In seeking Commission review of Judge La Jeunesse's decision, Mr. M. raises only one issue—whether §34A-2-413(5) “is unconstitutional as a violation of the equal protection clause of the 14th Amendment to the United States Constitution and the uniform operation of laws provision of article I, section 24 of the Utah Constitution.”

DISCUSSION AND CONCLUSION OF LAW

Mr. M. does not argue that Judge La Jeunesse has misinterpreted or misapplied §34A-2-413(5). Instead, Mr. M.'s attack is aimed squarely at the constitutionality of the statute. It is well settled that the adjudicative authority of the Commission is limited; it does not extend to deciding constitutional questions. Instead, the Commission must presume that statutory provisions, including the provisions of §34A-2-413(5), are constitutional. On that basis, the Commission declines to consider Mr. M.'s constitutional arguments against §34A-2-413(5).

ORDER

The Commission affirms Judge La Jeunesse's decision and denies Mr. M.'s motion for review. It is so ordered.

Dated this 29th day of June, 2006.

R. Lee Ellertson
Utah Labor Commissioner